

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

ELIZABETH SINES, *Et al.*,

v.

Case No. 3:17-cv-72

JASON KESSLER, *Et. al.*,

MOTION FOR APPOINTMENT OF COUNSEL
TO REPRESENT DEFENDANT IN ANCILLARY MATTER

Defendant James Alex Fields, Jr., moves the court pursuant to 18 U.S.C. § 3006A(c) to appoint counsel to represent him in this case as an ancillary matter to his criminal case currently pending in this district, Case No. 3:18-cr-11, for the reasons set forth below:

1. Fields has been indicted by the grand jury on a total of 30 counts: 29 violations of 18 U.S.C. § 249 and one count of 18 U.S.C. § 245 in Case No. 3:18-cr-11.
2. In that case, Fields has been declared financially eligible for appointed counsel, and at his initial appearance on July 5, 2018, the Federal Public Defender of the Western District of Virginia was appointed to represent him on the pending criminal charges.
3. Fields is also a defendant in this parallel civil action, *Sines v. Kessler*, Case No. 3:17cv72, which alleges, among other things, that Fields conspired with others to violate the civil rights of persons in violation of 42 U.S.C. § 1985(3), 42

U.S.C. § 1986, and various sections of the Code of Virginia. *See* Amended Complaint, ECF 175.

4. Representation may be furnished for financially eligible persons in “ancillary matters appropriate to the proceedings” under 18 U.S.C. § 3006A(c).

5. In determining whether a matter is ancillary to the proceedings, “the court should consider whether the matter, or the issues of law or fact in the matter, arose from, or are the same as or closely related to, the facts and circumstances surrounding the principal criminal charge.” *Guide to Judiciary Policy, Vol 7, Defender Services, Part A*, § 210.20.30(b).

6. This civil case is clearly ancillary to the pending criminal indictment as both are based on the same facts, the events in Charlottesville on August 12, 2017, associated with the “Unite the Right” event.

7. In determining whether representation in the ancillary matter is appropriate to the proceedings, “the court should consider whether such representation is reasonably necessary to accomplish, among other things, one of the following objectives: (1) to protect a Constitutional right. . . .” *Guide to Judiciary Policy, Vol 7, Defender Services, Part A*, § 210.20.30(c).

8. Fields is currently represented by counsel in this civil case by attorneys provided by his automobile insurance carrier. However, the appointment

of counsel is appropriate to provide counsel to advise Fields concerning his Fifth Amendment rights during the civil litigation.

WHEREFORE, the defendant moves the court to appoint the Federal Public Defender for the Western District of Virginia to represent him in this ancillary civil case.

Respectfully submitted,

JAMES ALEX FIELDS, JR.

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: counsel of record; and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none

/s/ Lisa M. Lorish
Assistant Federal Public Defender